

**RECORD OF PROCESSING ACTIVITY  
ACCORDING TO ARTICLE 31 REGULATION 2018/1725<sup>1</sup>  
NOTIFICATION TO THE DATA PROTECTION OFFICER**

**NAME OF PROCESSING OPERATION<sup>2</sup>: The informal procedure under EB Decision 2019/02 for dealing with psychological and sexual harassment**

Reference number: DPR-2018-009 (to be completed by the DPO)
Creation date of this record: 21/12/2018
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Version: 3

**Part 1 (Publicly available)**

<b>1) Controller(s)<sup>3</sup> of data processing operation (Article 31.1(a))</b>
<p>Controller: European Union Agency for Fundamental Rights (FRA)          Schwarzenbergplatz 11, A-1040 Vienna, Austria          Telephone: +43 1 580 30 – 0          Email: <a href="mailto:contact@fra.europa.eu">contact@fra.europa.eu</a>          Organisational unit <b>responsible<sup>4</sup></b> for the processing activity: Corporate Services          Contact details: <a href="mailto:wellbeing@fra.europa.eu">wellbeing@fra.europa.eu</a>          Data Protection Officer (DPO): <a href="mailto:dpo@fra.europa.eu">dpo@fra.europa.eu</a></p>

<b>2) Who is actually conducting the processing? (Article 31.1(a))<sup>5</sup></b>
<p>The data is processed by the FRA itself <input checked="" type="checkbox"/></p> <p>The confidential counsellors nominated by FRA are the recipients and processors of the data.</p>

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>

<sup>2</sup> **Personal data** is any information relating to an identified or identifiable natural person, i.e. someone who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, a picture, professional details, etc.

**Processing** means any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

<sup>3</sup> In case of more than one controller (e.g. joint FRA research), all controllers need to be listed here

<sup>4</sup> This is the unit that decides that the processing takes place and why.

<sup>5</sup> Is the FRA itself conducting the processing? Or has a provider been contracted?

The data is processed also by a third party:

FRA staff may have recourse to the network of confidential counsellors appointed at other agencies, in which case, they will also be recipients and processors of the data.

### 3) Purpose of the processing (Article 31.1(b))

*Why are the personal data being processed? Please provide a very concise description of what you intend to achieve with the processing operation. Specify the rationale and underlying reason for the processing and describe the individual steps used for the processing. If you do this on a specific legal basis, mention it as well (e.g. staff regulations for selection procedures).*

To prevent and to deal effectively with any actual or potential cases of psychological or sexual harassment at the workplace, confidential counsellors process personal data within the framework of FRA's Anti-Harassment policy (EB Decision 2019/02).

Data may be processed for the following purposes:

- To support and protect alleged victims and to direct them in case of need towards the appropriate services;
- To provide effective administration and seek to resolve cases as swiftly as possible;
- To put in place preventive initiatives;
- To monitor and evaluate implementation of the Anti-Harassment Policy;
- To identify recurrent or multiple cases and provide advice accordingly;
- To transmit appropriate information to the authorised parties in the event of initiation of the formal procedure;
- To reply to the Ombudsman or legal authorities at national or EU level, or to pre-litigation activities.

The data provided to FRA confidential counsellors by the alleged victim or alleged harasser are treated in the strictest confidence. Confidential counsellors complete opening and closing forms for each case. Only anonymised data is made available to the coordinator, HR and the Director for statistical and reporting purposes. The coordinator of the confidential counsellors network maintains an overview of the persons appointed/made available as confidential counsellors and may receive the names of staff, SNEs and trainees who wish to approach a confidential counsellor (if the concerned person approaches the coordinator), but otherwise receives only anonymous case forms for statistics and recording purposes.

FRA staff may also contact confidential counsellors appointed at other Agencies. Such confidential counsellors have completed the required training, as the counsellors appointed at FRA have, and are staff members bound by the SR/CEOS. External

confidential counsellors will follow the FRA manual and procedures and be guided by FRA's confidential counsellor coordinator. In such cases, the confidential counsellor will receive the personal data only related to that specific staff member's case and the agency sharing the confidential counsellor will not receive any data. Anonymised data on the opening and closing forms will be retained by the coordinator at FRA and not held at the agency of the external confidential counsellor. The confidential counsellor will not keep any data beyond the period necessary for a case to be dealt with.

#### 4) Description of the categories of data subjects (Article 31.1(c))

*Whose personal data are being processed?*

FRA staff ("staff" in this context includes temporary and contract staff, SNEs and trainees. The identity of the data subjects (i.e. alleged victim and alleged harasser) is mentioned on the opening form. The case files contain statements and communications of the alleged victims, of the alleged harasser(s) and potentially of witnesses).

Non-FRA staff   
(The documents above may contain data relating to third parties)

#### 5) Categories of personal data processed (Article 31.1(c))

*Please tick all that apply and give details where appropriate*

**(a) General personal data (add or delete as appropriate – the data in the brackets are only examples)**

Personal details (name, surname, gender)

Contact details (FRA email address, unless the data subject chooses to provide a private email address)

Education & Training details

Employment details (may be revealed depending on the nature of the complaint, e.g. information regarding contract type, grade, performance evaluations)

Financial details (e.g. financial identification form, bank account information)

Family, lifestyle and social circumstances (may be revealed by the data subject depending on the nature of the complaint)

Goods or services provided

Other (please give details):

**(b) Special categories of personal data (Article 10)**

It cannot be excluded that when contacting a confidential counsellor or going through the informal procedure, a data subject may voluntarily reveal data concerning:

- |  |                                     |
|--|-------------------------------------|
| Racial or ethnic origin  | <input checked="" type="checkbox"/> |
| Political opinions   | <input checked="" type="checkbox"/> |
| Religious or philosophical beliefs                                   | <input checked="" type="checkbox"/> |
| Trade union membership   | <input type="checkbox"/>            |
| Genetic, biometric or data concerning health                         | <input checked="" type="checkbox"/> |
| Information regarding an individual's sex life or sexual orientation | <input checked="" type="checkbox"/> |
| N/A  | <input type="checkbox"/>            |

**(c) Personal data relating to criminal convictions and offences (Article 11)**

- |  |                                     |
|--|-------------------------------------|
| Criminal record (or similar, e.g. declaration of good conduct) | <input type="checkbox"/>            |
| N/A  | <input checked="" type="checkbox"/> |

**6) Recipient(s) of the data (Article 31.1 (d))**

*Recipients are all parties who have access to the personal data. Who will have access to the data **within** FRA? Who will have access to the data **outside** FRA? No need to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).*

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| Designated <b>FRA</b> staff members | <input checked="" type="checkbox"/> |
|-------------------------------------|-------------------------------------|

The confidential counsellors are the recipients of the data. The designated coordinator for the confidential counsellors receives some data, usually limited to the names of staff who approach confidential counsellors (if the data subject contacts the coordinator rather than a confidential counsellor directly). The coordinator receives only anonymous data on the case opening and closing forms.

Confidential counsellors may put alleged victims in contact with relevant services (e.g. the medical advisor, HR, staff responsible for training, the line manager) and may meet the other party and play a conciliatory role to try to reach an amicable solution. In these instances, any information obtained as part of the informal procedure is only shared with these other parties with the consent of the data subject. Transmission of certain information can only be made without consent when this is necessary to ensure the

protection of those concerned, for example to the medical advisor, security or HR in the eventuality that the confidential counsellor believes a person concerned to be in real danger. The information transmitted will be limited to what the other person needs to know to perform their duties.

Recipients **outside** FRA:

(please provide a generic/functional mailbox)

Should a FRA staff member choose to make use of a confidential counsellor outside the Agency, they will provide the data to that external confidential counsellor.

### 7) Transfers to third countries or international organisations (Article 31.1 (e))<sup>6</sup>

*If the personal data are transferred outside the European Economic Area or to international organisations, this needs to be specifically mentioned, since it increases the risks of the processing operation.*

#### **Transfer outside of the EU or EEA**

Yes

No

**If yes, specify to which country:**

#### **Transfer to international organisation(s)**

Yes

No

If yes specify to which organisation:

#### **Legal base for the data transfer**

Transfer on the basis of the European Commission's adequacy decision (Article 47)

Transfer subject to appropriate safeguards (Article 48.2 and .3), specify:

a)  A legally binding and enforceable instrument between public authorities or bodies.

Standard data protection clauses, adopted by

b)  the Commission, or

c)  the European Data Protection Supervisor and approved by the Commission, pursuant to the examination procedure referred to in Article 96(2) .

d)  Binding corporate rules,  Codes of conduct ,  Certification mechanism

<sup>6</sup> **Processor** in a third country using standard contractual clauses, a third-country public authority you cooperate with based on a treaty. If needed, consult your DPO for more information on how to ensure safeguards.

pursuant to points (b), (e) and (f) of Article 46(2) of Regulation (EU) 2016/679, where the processor is not a Union institution or body.

Subject to the authorisation from the European Data Protection Supervisor:

Contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation.

Administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

Transfer based on an international agreement (Article 49), specify:

***Derogations for specific situations (Article 50.1 (a) –(g))***

N /A

Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply  
In the absence of an adequacy decision, or of appropriate safeguards, transfer of personal data to a third country or an international organisation is based on the following condition(s):

(a) The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards

(b) The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request

(c) The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person

(d) The transfer is necessary for important reasons of public interest

(e) The transfer is necessary for the establishment, exercise or defense of legal claims

(f) The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent

(g) The transfer is made from a register which, according to Union law, is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down in Union law for consultation are fulfilled in the particular case

### 8) Retention time (Article 4(e))

*How long will the data be retained and what is the justification for the retention period? Please indicate the starting point and differentiate between categories of persons or data where needed (e.g. in selection procedures candidates who made it onto the reserve list vs. those who didn't). Are the data limited according to the adage "as long as necessary, as short as possible"?*

The coordinator stores the opening and closing forms in a central archive for five years. They will not contain the names of the alleged harassers who were not informed of the informal procedure.

Five years is the period considered necessary to evaluate the policy, reply to any legal questions and to identify multiple or recurrent cases. Files may be held for a further five years if there is an administrative or legal procedure necessitating their consultation.

Statistical data is held by the coordinator without time limit in an anonymous format.

Confidential counsellors shall not store any data of a personal nature beyond the period necessary for a case to be dealt with. Under no circumstances may they keep personal data for more than three months after the date of closure of a case.

### 9) Technical and organisational security measures (Article 31.1(g))

*Please specify where/how the data are stored during and after the processing; please describe the security measures taken by FRA or by the contractor*

#### How is the data stored?

Document Management System (DMS)

FRA network shared drive

Outlook Folder(s)

CRM

Hardcopy file

Cloud (see FRA's MS 365 [record](#))

Servers of external provider

Other (please specify): *In the event that a FRA staff member makes use of a confidential counsellor from another Agency, that counsellor will store the data received in accordance with the technical and organisational security measures applicable at their agency.*

## 10) Exercising the rights of the data subject (Article 14 (2))

*How can people contact you if they want to know what you have about them, want to correct or delete the data, have it blocked or oppose to the processing? How will you react?*

See further details in the Data Protection notice

### **Data subject rights**

- Right of access
- Right to rectification
- Right to erasure (right to be forgotten)
- Right to restriction of processing
- Right to data portability
- Right to object
- Notification obligation regarding rectification or erasure of personal data or restriction of processing
- Right to have recourse
- Right to withdraw consent at any time

Note: The rights of data subjects may be restricted in limited circumstances in accordance with Article 25 of Regulation 2018/1725 and Article 3(b) of the [MB Decision](#) on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data where such restriction is necessary to protect the safety of the data subject or others or for the purpose of the proper conduct of informal and formal procedures in relation to harassment.